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TO: ADMINISTRATOR AND SENIOR EXECUTIVES
DATE: FRIDAY, JANUARY 13, 2017 7:00 AM EST

Holiday Message

In observance of the federal Martin Luther King Jr. Day holiday, we will not publish on Monday, January 16, 2017. Service will resume on Tuesday, January 17, 2017. We wish our readers a safe holiday.

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Administrator

Judge Orders EPA TO Hasten Assessment Of Coal Job Impacts.

The [AP](#) (1/12) reports that a federal judge has ordered the EPA to “quickly evaluate” the impact of air pollution regulations on power plant and coal mining jobs. U.S. District Judge John Preston Bailey previously ordered the EPA to begin an analysis into the lost jobs, but EPA Administrator Gina McCarthy “asserted it would take the agency up to two years to devise a methodology to use to try to comply with the earlier ruling.” Judge Baily wrote that her response is “wholly insufficient, unacceptable, and unnecessary,” and that it “evidences the continued hostility on the part of the EPA to acceptance of the mission established by Congress.”

Senate Democrats Raise Conflict-Of-Interest Questions About Pruitt.

[Politico](#) (1/12, Schor) reports that Senate Democrats “are leveling new conflict-of-interest charges” against EPA Administrator-designate Scott Pruitt, asking if his ethics agreement “adequately guards against the influence of his fossil-fuel industry donors.” Democrats asked the Office of Government Ethics “for more information about the Republican Attorneys General Association, which he led for two years during a time when the GOP stepped up its use of the courts to undercut” President Obama’s regulatory agenda. The Democrats “also asked EPA’s ethics official to explain when Pruitt would get clearance to work on environmental issues that he is currently suing EPA over in his current job as Oklahoma’s attorney general.”

Pruitt Blasted For PAC’s Political Efforts, Ties To Energy Industry. In an op-ed in the [Huffington Post](#), (1/12, Surgey) Nick Surgey, Director of Research at The Center for Media & Democracy, claims that EPA Administrator nominee Scott Pruitt “coordinated an effort by Republican state attorneys general to oppose the confirmation of Merrick Garland to the Supreme Court.” Moreover, Surgey says he “used this effort as a basis to request financial support for his federal Political Action Committee,” called Oklahoma Strong. He also notes that according to [Politico](#), “Oklahoma Strong has raised more than a third of its total funds from the energy industry.”

Sierra Club Launches Second Ad Campaign Against Pruitt.

[The Hill](#) (1/12, Cama) reports a new ad campaign has been launched by the Sierra Club “pushing senators to vote against President-elect Donald Trump’s choice to lead the Environmental Protection Agency, Scott Pruitt.” The ad campaign “is running in 14 states with senators who environmentalists want to try to sway, and in Washington, D.C.” It is the second campaign by the Sierra Club that targets Pruitt, “who has also drawn the ire of numerous other environmental

groups, like the Environmental Defense Action Fund, the League of Conservation Voters and 350.org.” The Senate Environment and Public Works Committee will hold his confirmation hearing on Jan. 18.

Green, Industry Groups Make Opposing Cases Regarding Pruitt’s Nomination. The Hill (1/12, Henry) reports that green groups opposing Pruitt’s nomination and industry groups supporting it have both sent separate letters to senators aimed at making their case. While the League of Conservative Voters urged senators to vote against Pruitt’s and his “radical record and the far-reaching damage he could do at the helm of the EPA,” the conservative and fossil fuel-funded organizations wrote that “Mr. Pruitt has demonstrated his commitment to upholding the Constitution and ensuring the EPA works for American families and consumers.”

Tennessee AG Defends Scott Pruitt To Lead EPA.

Tennessee Attorney General Herbert H. Slatery III writes in the Tennessean (1/12, Slatery) that Scott Pruitt is a “bold” and “encouraging” pick to lead the EPA. Slatery defends Pruitt against common criticisms, such as that “he does believe in climate change; he does not believe in the EPA’s mission; he favors the oil and gas industry,” stating that he doesn’t think Pruitt “fits any of those descriptions.”

Air

EPA Denies Maryland Request To Act On Interstate Smog.

The Baltimore Sun (1/12, Dance) reports the EPA has “tentatively denied a request from Maryland and seven other states that it crack down on pollution that blows across state borders,” saying there are other strategies the states could take under federal air pollution laws to address the problem. “Maryland will continue to insist on more environmental progress by our upwind partner states,” said Ben Grumbles, secretary of the Maryland Department of the Environment. “We are committed to using all available and appropriate tools.” Maryland officials estimate that 70 percent of its ozone pollution blows in from upwind.

Senate Advances Budget Resolution With Amendment Blocking Ozone Standard.

E&E Daily (1/12) reports that the Senate adopted its fiscal 2017 budget resolution in a party-line vote, without a vote on several amendments that “would have delayed enforcement of EPA’s 2015 ozone standards until 2025,” barred the sale of federal lands, “provided a long-term reauthorization of a coal-mine workers’ health and pensions program,” and protect federal workers’ pay.

Additional Reading.

- **EPA Is Urged To Freeze Enforcement Of 2015 Smog Standard.** E&E Publishing (1/12).
- **Industrial, Utility Emissions Drop — EPA.** E&E Publishing (1/12).

Climate Change

Tillerson Says “America First” A Driver Of US Involvement In Climate Pact.

Bloomberg BNA (1/12, Scott) reports Rex Tillerson said Donald Trump’s “America first” campaign vow “is an important consideration as we commit to such accords and as those accords are executed over time.” Tillerson said he would not target State Department employees who work on climate issues and said he continues to support a tax on the carbon content of fossil fuels. E&E

Daily (1/12) reports Tillerson “repeatedly affirmed his belief in man-made climate change,” but left open the prospect of “pulling out of the deal or not following through on its carbon-slashing goals if they put US businesses at a competitive disadvantage.” Tillerson’s nomination “may be on the path to quick approval in the Senate.” David Roberts for Vox (1/12) recaps an exchange between Tillerson and Sen. Jeff Merkley during the confirmation hearing, calling Tillerson a “lukewarmist” on climate change.

California Lawmakers Offer Plan To Extend Cap-and-trade Program.

The Los Angeles Times (1/12, Megerian) reports California lawmakers “introduced legislation on Thursday to ensure that California’s cap-and-trade emissions control program remains a permanent part of the state’s climate policy.” Gov. Jerry Brown wants a supermajority vote in both houses of the Legislature “to safeguard cap-and-trade from legal uncertainty, stemming in part from a lawsuit over whether the program represents an unconstitutional tax” and questions about whether current law requires the program to expire in 2020.

USDA Report Says Ethanol Better For Environment Than Expected.

Reuters (1/12, Prentice) reports the US Department of Agriculture said on Thursday that ethanol made from corn is better for the environment than expected. The report says that the biofuel reduces greenhouse gas emissions by 43 percent relative to gasoline, significantly more than the previous EPA estimate of 21 percent. USDA Agriculture Secretary Tom Vilsack said the “report provides evidence that corn ethanol can be a GHG-friendly alternative to fossil fuels, while boosting farm economies.”

Climate Activists Rally Against Trump’s Nominees Over Climate Change Issues.

Dubois (PA) Courier-Express (1/13) reports that nearly 300 people representing 13 local groups took part in a “National Day Against Denial” rally and march in Philadelphia intended to draw attention to the “urgent threat” of climate change. The effort also targeted President-elect Trump’s nominees for various cabinet positions who have questioned climate change science, including “Rex Tillerson, the pick for secretary of state; Scott Pruitt, the pick for Environmental Protection Agency administrator; former Texas Gov. Rick Perry, the pick for secretary of energy; and U.S. Rep. Ryan Zinke (R-Mont.), the pick for the Department of Interior.”

Sanders: There Is No Compromising With Trump On Climate Change.

The Hill (1/12, Savransky) reports Sen. Bernie Sanders signaled that he sees “some opportunities to work with President-elect Donald Trump and his administration.” On MSNBC, Sanders said, “I don’t think it makes sense to say, ‘No, we’re not going to work in any way, in any form, with the Trump administration.’” He added, “Trump has talked appropriately about a collapsing infrastructure on roads, bridges and water systems.” However, he “said there can be no compromise on the issue climate change.” Sanders said, “Bringing forward a nominee for the EPA, Mr. Pruitt, who does not believe in environmental protection, is crazy, it is insane. ... Climate change is real and it’s one of the great threats to our planet. We have to transform our energy system.”

CIA Director Nominee Declines To Comment On Climate Change During Confirmation Hearing.

The Hill (1/12, Cama, Henry) reports Rep. Mike Pompeo, President-elect Donald Trump’s choice to head the CIA, “declined Thursday to discuss how he believes climate change should fit into the agency’s operations.” Sen. Kamala Harris, freshman Democrat from California, “tried repeatedly to

get Pompeo to weigh in on the CIA's climate positions under Obama, NASA's findings on climate change and how those will inform his job." Pompeo said, "Frankly, as director of CIA, I'd prefer ... not to get into the details of climate debate and science. ... My role is going to be so different and unique from that, it is going to be to work alongside warriors keeping Americans safe." The Washington Examiner (1/12, Gehrke) reports Harris "later said Pompeo's views on global warming called into question his ability to accept evidence and the consensus of the intelligence community."

Judge Orders ExxonMobil To Hand Over 40 Years Of Climate Change Research.

The AP (1/12) reports ExxonMobil "has been ordered to hand over documents related to a state investigation into whether it misled the public about the impact of fossil fuels on the climate." In Wednesday's decision, Judge Heidi Brieger wrote, "There is no requirement that the Attorney General have probable cause to believe that a violation [of the law] has occurred," but need only "have a belief that a person has engaged in or is engaging in conduct declared to be unlawful." ClimateWire (1/12) reports attorneys for Exxon "say politics are driving Healey's investigation" and a similar probe by New York AG Eric Schneiderman. Brieger wasn't persuaded Healey had "acted arbitrarily or capriciously" and that the dispute between Healey and Exxon should be heard in Massachusetts.

TIME (1/12, Worland), the Dallas Morning News (1/12) and the website of CNN Money (1/12, Egan) also cover this story.

NAS Recommends Update To How Social Cost Of Carbon Metric Is Determined.

The Washington Post (1/12, Harvey) reports on a new report by the National Academy of Sciences which recommends updates to "social cost of carbon" metric, currently set at about \$36 per ton of carbon dioxide. The NAS report "recommends a new framework that unbundles the various steps of the calculation process and addresses them in separate modules," and that these modules "be shaped to rely on the most relevant and up-to-date science in each area." The non-binding recommendations could place pressure on the Trump administration, "making it more difficult for the administration to make any arbitrary or unscientific changes to the social cost of carbon estimate to lower its value once in office."

California Moves To Guarantee Carbon Cutting Projects.

Bloomberg News (1/13, Carr) reports California is considering a system that would guarantee money to protect projects that cut global warming emissions if the market worsens under a Trump Administration. The program would guarantee the money "these project developers get for emission-reduction credits by auctioning options that oblige California to pay a minimum price for them, based on measures the state's considering." Essentially the state is acting as a buyer of last resort to encourage private finance.

Energy

Ports Turn To Natural Gas In Quest For Cleaner Marine Fuel.

In a story on how tighter emissions limits are affecting fuel purchase decisions for global shipping companies, Bloomberg News (1/12, Pearson, Malik) cites several company sources and analysts including Pira Energy Senior Director of Global Gas and LNG Madeline Jowdy who believes firms will be slow to change over to LNG-based fuels, with decisions depending on new ship construction and port investment in the technology to handle LNG. Jowdy said, "The problem will remain a chicken-and-egg dilemma for quite some time."

Enforcement

EPA Says Fiat Chrysler Installed Emissions Cheating Software In Diesel Trucks.

The Washington Post (1/12, Overly, Dennis) reports that the EPA on Thursday accused Fiat Chrysler of installing software that enables the 2014 to 2016 model year Dodge Ram 1500 pickup trucks and Jeep Grand Cherokees with 3.0-liter diesel engines “to emit far more pollutants than emissions laws allow.” According to agency officials “the allegations affect roughly 104,000 vehicles.” Kris Van Cleave reported in the lead story for the CBS Evening News (1/12, lead story, 2:15, Pelley) that the allegations “are similar to those leveled at Volkswagen,” which agreed Wednesday “to plead guilty to three felony counts for its use of software that circumvented US emission standards.” The case “has cost VW at least \$20 billion and prompted additional EPA scrutiny of diesel vehicles, leading to today’s action against Fiat-Chrysler.” While NBC Nightly News (1/12, story 10, 0:25, Holt) said Fiat Chrysler “rejects comparisons to Volkswagen,” the Wall Street Journal (1/12, Dawson, Spector) reports that EPA said the violations could cost Fiat Chrysler \$4.63 billion, based on a penalty of \$44,539 for each vehicle.

According to the EPA, USA Today (1/12, Bomey) reports, the company “installed eight different undisclosed software programs on the vehicles that collectively caused them to spew harmful nitrous oxide emissions, which can exacerbate breathing conditions.” Cynthia Giles, assistant administrator for EPA’s Office of Enforcement and Compliance Assurance, said, “This is a clear and serious violation of the Clean Air Act.” The New York Times (1/12, Tabuchi) says that while Giles “stopped short of calling the software ‘defeat devices,’ which Volkswagen used to cheat on diesel emissions tests,” she “said there was no doubt that Fiat Chrysler’s software ‘is contributing to illegal pollution.’” Reuters (1/12, Shepardson) quotes California Air Resource Board chair Mary Nichols as saying, “Once again, a major automaker made the business decision to skirt the rules and got caught.”

The Los Angeles Times (1/12) says Fiat Chrysler Chief Executive Sergio Marchionne denied the allegations, arguing that the agency “was blowing the issue out of proportion.” Speaking in a conference call Thursday, Marchionne said, “We have done, in our view, nothing that is illegal. ... We will defend our behavior in the right environment.” While Marchionne “said company lawyers told him the Justice Department is investigating the company in concert with the EPA, raising the likelihood of an ongoing criminal investigation,” the company “said it intends to present its case to the incoming Trump administration.” ABC World News Tonight (1/12, story 8, 0:25, Muir) briefly reported on the EPA’s allegations Thursday evening.

WPost, NYTimes Analyses: Obama DOJ Toughens Approach On Corporate Crime. A front-page story in the Washington Post (1/12, Overly, Nakashima) says the EPA allegations are part of an effort by the Obama Administration in its “waning days” to get corporations “to plead guilty and charg[e] executives in connection with crimes.” In addition to VW’s admission of guilt and the allegations against Fiat Chrysler, the Justice Department on Friday “is expected to announce that Takata will plead guilty to criminal misconduct related to the installation of faulty air bags in tens of millions of cars, according to people familiar with the matter.”

The New York Times (1/12, Protess, Apuzzo) reports that “not a single top Wall Street executive went to prison” in the wake of the 2008 financial crisis, and “for that, the Obama administration’s Justice Department took one lashing after another, from Congress, the press and a few maverick judges.” The Times adds that “over the past two years,” the Justice Department “began changing its approach,” as “two prosecutors with specialties in white-collar cases joined the administration and helped spearhead the push: Deputy Attorney General Sally Q. Yates, who

created new guidelines for prosecuting corporate employees, and Leslie R. Caldwell, who took over the Justice Department's criminal division." The Times notes that Wednesday "brought a guilty plea from Volkswagen as well as criminal charges against six Volkswagen executives for their roles in the emissions-cheating scandal, the first major test of Ms. Yates's new policy."

The New York Times (1/12) editorializes that "for too long, big corporations and financial institutions have been able to pay fines for their misdeeds and settle civil cases while escaping criminal indictment," and now, "in the final days of the Obama administration, the Department of Justice has delivered a strong message to multibillion-dollar companies and their executives: No one is 'too big to jail.'" The Times adds that the case against Volkswagen "sends an important signal to executives that they can be held responsible for crimes committed on their watch."

VW Axed From CBP Trusted-Cargo Program Over Emissions Scandal.

Because of an emissions-cheating scandal that cost it more than \$20 billion, Bloomberg News (1/12, Beene) reports, Volkswagen AG was removed in March from US Customs and Border Protection's Customs-Trade Partnership Against Terrorism program, which "offers perks to companies such as front-of-line inspections and fewer searches in exchange for agreeing to bolster the security of their cargo and supply chains." Bloomberg says the company faces "a greater risk of lengthy delays at border crossings" and "must seek readmission to rejoin the program." VW on Wednesday "agreed to pay \$4.3 billion and pleaded guilty to U.S. criminal charges tied to its emissions cheating, including the use of false statements to import cars to the U.S.," raising "to more than \$23 billion the amount the company has committed to paying in U.S. and Canadian civil and criminal settlements."

International

Additional Reading.

- **Coal Curbs in Asia Could Save 50000 Lives Annually, Study Says.** Bloomberg News (1/13, News)

Other News

EPA Employees "Waiting For Hammer To Fall" In Trump Administration.

E&E Publishing (1/12) reports on "concerns throughout the government workforce about the fate of programs [Donald Trump] targeted on the campaign trail." John O'Grady, president of a national American Federation of Government Employees council of EPA employee unions said the mood is "not good," at the EPA. "I think everybody's kind of waiting for the hammer to fall." O'Grady is tracking the Holman Rule, which "would allow any House member to offer an amendment to any of the 12 annual appropriations bills to limit spending to cut employees or reduce their pay." O'Grady is also watching for legislation from Rep. Todd Rokita that was introduced in the last Congress to "create at-will employment status for new federal employees and immediately suspend employees due to misconduct or poor performance." The AFGE saw its highest membership ever in December and EPA local unions "are seeing that boom, too" ahead of the incoming Trump administration.

Rep. Lamar Smith Seeks To Resurrect EPA Secret Science Reform Act.

The Houston Press (1/12, Wray) reports that Rep. Lamar Smith, chairman of the House Science, Space and Technology Committee, is expected to resurrect the Secret Science Reform Act now

that Republicans control the White House and Congress. The bill, which seeks to “prohibit the EPA from ‘proposing, finalizing, or disseminating regulations or assessments based on science that is not transparent or reproducible,’” was first proposed and then blocked in 2014.

EPA Announces Acting Roles For Leadership Positions During Transition.

E&E Publishing (1/12, Bogardus) reports that the EPA announced Thursday the list of officials who will “hold down top political jobs on an acting basis until the Trump administration’s new appointees can be put in place.” The memo did not say list officials for the agency’s most senior leadership jobs during the transition period.

Moniz Says New Policy Protecting Scientists Has Nothing To Do With Trump.

In continuing coverage E&E Publishing (1/12) reports Energy Secretary Ernest Moniz has signaled that a “new policy” at the Energy Department “to protect scientists from interference has been in the works for more than a year and does not reflect concerns raised since the election of Donald Trump.” Moniz stated, “But I would not be surprised if there are some reactions to it along those lines.” He added, “I wish we had gotten this out earlier as we had planned, to be honest, because we started at least a year ago, long before the election; frankly before the candidates were known.” E&E adds that “the policy is much broader than one that had covered the department’s roughly 13,000 civil service employees.” The policy now “covers the nearly 58,000 workers at DOE’s 17 national laboratories who work for the contractors that operate the facilities.” Moniz stated, “The lab directors are very pleased to have this coming out.” TIME (1/12, Worland) reports Moniz said, “It’s part of establishing the environment that allows scientist to do their work, to stay with us, and to recruit new people.” The Christian Science Monitor (1/12) also provided coverage of this story.

Pesticides

Additional Reading.

- **Greens Urge EPA To Ban Coyote-Killing Compound.** E&E Publishing (1/12).
- **EPA Relaxes Bee-Protection Guidelines.** E&E Publishing (1/12).

Water

Obama Administration Approves \$2B Disability Package For Veterans Exposed To Contaminated Water.

Fox News (1/12) reports that Obama Administration has approved a \$2 billion package to provide disability benefits to “veterans who had been exposed to contaminated drinking water while assigned to Camp Lejeune in North Carolina.” The Department of Veterans Office estimates that as many as 900,000 service members were exposed to the contaminated water between 1953 and 1987.

Additional Reading.

- **New Environmental Protection Agency Program Encourages Water Infrastructure Projects For Missourians.** Hannibal (MO) Courier-Post (1/11)
- **Haiti And Flint: Worlds Apart, But Looking For Clean Water.** Miami Herald (1/12)

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